

CASE NO.: CA920010006US1  
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### Remarks

Reconsideration of the above-captioned application is respectfully requested. Taking the rejections of the remaining non-canceled claims *seriatim*:

Claims 1-5, 7-12, and 20-22 have been rejected under 35 U.S.C. §112, second paragraph for being indefinite allegedly because certain "essential elements", namely, a computer medium, have been omitted. First, the issue of omitting essential elements is one under the first paragraph, not the second paragraph, of Section 112. Second, it applies only when the written description has made clear that the allegedly essential element indeed is essential, MPEP §2163.05, discussion Gentry Gallery. For each and every future allegation of omitting essential subject matter, Applicant hereby requests an explanation as to where in the specification clear statements have been made regarding the allegedly essential nature of the unclaimed subject matter.

It also appears to be the examiner's position that Claims 1-9, 11, 12, and 20 provide for "uses" of elements without delimiting how the use is practiced. To the extent that Applicant understands this, all of these claims now require either a computer or a computer medium with accompanying functions, and that therefore these rejections have been overcome.

A comment has been made on page 5 of the Office Action that appears to relate to interpreting recitations of "a method" or "at least one method" and purporting to levy an interpretation in the absence of a statement to the contrary. Applicant does not understand what the examiner has attempted to state and accordingly can neither rebut nor endorse it; however, as a general rule Applicant observes that claim interpretation is a legal question that depends on the claims themselves and on the intrinsic evidence of record, which does not include an examiner's construction that is self-declared to be "endorsed" by virtue of absent rebuttal.

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Claims 1-12 and 20 have been rejected under 35 U.S.C. §101 for reciting non-statutory subject matter. As now amended all of these claims recite a computer or a computer medium, overcoming the rejections as best understood by Applicant.

The comments on page 8 regarding Claims 9 and 12 being admittedly directed towards a machine but somehow being limited to information *per se* and thus in some way transgressing Section 101 are not understood. If a claim is directed to a statutory machine, it is statutory.

Claims 1-5, 7-12, and 20-22 under 35 U.S.C. §102 as being anticipated by Bergamaschi et al. (publication referred to in Office Action as "Bergamaschi").

It may first be helpful to observe that Bergamaschi is directed to the problem of storing objects, which include not just data structures but also behaviors, in RDBMS, which are not conducive, per Bergamaschi, to storing behaviors, but just data structures. In contrast, the present invention seeks to reconcile use of different RDBMS by means of object-oriented programming.

With these different focal points in mind, it does not appear, contrary to the allegation in the Office Action, that Bergamaschi, pages 44-46 teach an object that has a property for indicating a database-specific data type name for a member, nor is there any reason for it to. Stated differently, Bergamaschi does not evidently envision different types of RDBMS, so there is no reason for it to indicate anything that is database-specific, much less a database-specific data type name.

Because the Office Action contains nothing more specific in this regard other than a general citation to pages 44-46, it is somewhat difficult to tell what, exactly, in Bergamaschi the examiner believes is a database-specific data type name. The class name of the ApplicationData class mentioned in Bergamaschi is not database-specific, nor is the "select class". Instead, the ApplicationData class includes data types

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without tying them to a specific database, and various object behaviors that use the data types, but again, nothing is taught in pages 44-46 of the reference that is directed to anything which is database-specific. Indeed, it follows that because the objects of Bergamaschi do not apparently mention a database type or name, they are database-independent: the precise opposite of what is claimed.

Because all of the elected independent claims contain the database-specific provision, all substantive rejections have been overcome.

This has been responded to by a run-on and nearly incomprehensible sentence to the effect that Bergamaschi et al. must perforce have a specific database in mind, and that certain limitations in the claims are descriptive. The latter point is now moot, and in any case was never legitimate because the allegedly "descriptive" subject matter was not describing mere copyrightable literary material but the content and function of a data construct used by a statutory machine. The former point misses the gravamen of Applicant's argument, which is that nothing in Bergamaschi et al. teaches *an object that has a property* for indicating a database-specific data type name for a member, nor is there any reason for Bergamaschi et al. to have this claimed feature because it does not evidently envision different types of RDBMS. "The name of the game is the claim", and here, there has been no evidence pointed to where the specifically claimed elements mentioned above are present in Bergamaschi et al.

The obviousness rejection of Claim 6 inherits the above defects and is overcome.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

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Respectfully submitted,



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